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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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OSCAR PEREZ-MARQUEZ,
Petitioner,
vs.
JO GENTRY, et al.,
Respondents.

Case No. 2:17-cv-01501-RFB-PAL

ORDER

Petitioner has paid the filing fee. Petitioner also has filed a motion for appointment of counsel (ECF No. 6). The court has reviewed his first amended petition for a writ of habeas corpus (ECF No. 18). Petitioner has not exhausted any of his grounds for relief. The petition also is untimely under 28 U.S.C. § 2244(d)(1). Petitioner presents a claim of actual innocence, which can excuse the operation of the statute of limitations. Given the nature of both his substantive claims and his claim of actual innocence, appointment of counsel is worthwhile in this case.

Petitioner's other motions are moot because counsel will decide what motions are necessary.

IT IS THEREFORE ORDERED that petitioner's motion for appointment of counsel (ECF No. 6) is **GRANTED**. The Federal Public Defender is provisionally appointed to represent petitioner.

IT IS FURTHER ORDERED that the Federal Public Defender shall have thirty (30) days from the date that this order is entered to undertake direct representation of petitioner or to indicate

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1 to the court its inability to represent petitioner in these proceedings. If the Federal Public Defender
2 does undertake representation of petitioner, it shall then have sixty (60) days to file a second amended
3 petition for a writ of habeas corpus. If the Federal Public Defender is unable to represent petitioner,
4 then the court shall appoint alternate counsel.

5 IT IS FURTHER ORDERED that neither the foregoing deadline nor any extension thereof
6 signifies or will signify any implied finding of a basis for tolling during the time period established.
7 Petitioner at all times remains responsible for calculating the running of the federal limitation period
8 under 28 U.S.C. § 2244(d)(1) and timely asserting claims.

9 IT IS FURTHER ORDERED that the clerk shall add Adam Paul Laxalt, Attorney General for
10 the State of Nevada, as counsel for respondents.

11 zIT IS FURTHER ORDERED that the clerk shall electronically serve both the Attorney
12 General of the State of Nevada and the Federal Public Defender a copy of the amended petition (ECF
13 No. 18) and a copy of this order.

14 IT IS FURTHER ORDERED that respondents' counsel shall enter a notice of appearance
15 within twenty (20) days of entry of this order, but no further response shall be required from
16 respondents until further order of the court.

17 IT IS FURTHER ORDERED that the hard copy of any electronically filed exhibits shall be
18 forwarded—for this case—to the staff attorneys in Las Vegas.

19 IT IS FURTHER ORDERED that petitioner's motion for evidentiary hearing (ECF No. 3),
20 motion for production of documents (ECF No. 4), motion to vacate sentence (ECF No. 5), motion for
21 production of documents (ECF No. 7), application for certificate of appealability (ECF No. 8), motion
22 to amend (ECF No. 9), motion to amend (ECF No. 11), motion to amend (ECF No. 12), motion for
23 production of documents (ECF No. 14), motion for production of documents (ECF No. 15), motion
24 for production of documents (ECF No. 16), motion for production of documents (ECF No. 17),

1 emergency motion (ECF No. 19), motion to stay case (ECF No. 20), motion to explain stay and
2 abeyance (ECF No. 21), and motion to amend (ECF No. 23) are **DENIED** as moot.

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4 DATED: December 18, 2017.

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RICHARD F. BOULWARE, II
United States District Judge
